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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 COPE SERVICES, INC.,
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13 Plaintiff,
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15 v.
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17 COPE SUPPLY CHAIN LIMITED, et
18 al,
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20 Defendant.
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Case No. 5:23-cv-00045-SHK

**CIVIL TRIAL SCHEDULING
ORDER**

Last Day to Stipulate or File a Motion
to Amend Pleadings or Add New
Parties: **April 7, 2023**

Substantial Completion of Fact
Discovery: **July 28, 2023**

Fact Discovery Cut-Off: **August 25,
2023**

Deadline for Initial Designation of
Expert Witnesses: **July 28, 2023**

Deadline for Designation of Rebuttal
Expert Witnesses: **August 11, 2023**

Expert Discovery Cut-Off: **August 25,
2023**

Dispositive Motion Cut-Off:
September 8, 2023

Dispositive Motion Hearing: **October
3, 2023**

Last day to Conduct Mediation:
October 10, 2023

Filing of Pretrial Conference, Jury
Instructions, and Other Trial
Documents: **October 20, 2023**

Pretrial Conference and Hearing on
Pretrial Motions: **October 31, 2023**
at 10:00 a.m.

Jury Trial: **November 6, 2023 at**
8:30 a.m.

Trial Estimate: 5 days
This case is set for trial before the Honorable Shashi H. Kewalramani,
Courtroom 4, United States District Court, 3470 Twelfth Street, 3rd Floor,
Riverside, California.

Motions

Each side is limited to three (3) motions in limine and each motion shall not be compound; *i.e.*, each motion shall address only one item of evidence or witness or, if common grounds for exclusion or admission apply to multiple items of evidence or witnesses, only one category of evidence or witnesses. A party seeking to make more than three motions in limine must request leave of court to do so. The parties are reminded that the purpose of a motion in limine is to make a threshold determination of the admissibility of specific evidence, not to determine the legal sufficiency of a party's claims or defenses.

All parties and counsel must comply with Local Rule 7-16, which provides as follows:

Any moving party who intends to withdraw the motion before the hearing date shall file and serve a withdrawal of the motion, not later than seven (7) days preceding the hearing. Any opposing party who no longer intends to oppose the motion, shall file and serve a withdrawal of the opposition, not later than seven (7)

1 **days preceding the hearing.**

2 Failure to comply with this notification requirement may result in the
3 imposition of sanctions on the offending counsel and party.

4 **Discovery**

5 Counsel shall initiate all discovery other than depositions at least forty-five
6 (45) days prior to the cut-off date. The Court will not approve stipulations between
7 counsel which permit responses to be served after the cut-off date except in
8 unusual circumstances and for good cause shown.

9 All depositions must be completed by the discovery cut-off deadline.
10 Counsel shall lodge all original depositions that will be used in trial with the
11 Courtroom Deputy Clerk on the first day of trial.

12 Discovery should focus only on issues genuinely in dispute. Counsel are
13 expected to resolve discovery problems without the assistance of the Court. The
14 parties are required to comply with Magistrate Judge Kewalramani's rules
15 regarding a pre-motion telephonic and to comply with the applicable rules
16 regarding discovery disputes. Motions related to discovery may be brought before
17 the Court one week after the discovery cut-off date. This will oftentimes require
18 the parties to notify Magistrate Judge Kewalramani's chambers of any discovery
19 dispute more than one week before the discovery cut-off date. If the Court
20 determines that the party has not been diligent in presenting the discovery dispute
21 in a timely fashion, the Court may deny relief on that basis alone.

22 If not separately set forth above, the required expert disclosures shall be
23 made seventy (70) days before the discovery cut-off date.

24 **Settlement Procedures**

25 Local Rule 16-2.9 requires the parties in every case to participate in a formal
26 settlement proceeding. Counsel must complete the settlement conference or
27 mediation by the date listed above and shall include in the proposed Pretrial
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1 Conference Order a status report detailing what procedure has been followed, and
2 the status of settlement efforts. The following procedures are available:

3 **Settlement Procedure No. 1** - Unless an alternative settlement procedure
4 has been selected by the parties, and with the concurrence of the Court, the
5 parties shall appear before the Court or before the Magistrate Judge assigned
6 to the case for such settlement proceedings as the Court may conduct or
7 direct.

8 **Settlement Procedure No. 2** - The parties shall appear before an
9 attorney selected from the Attorney Settlement Officer Panel, or before an
10 attorney appointed by the Court for settlement proceedings.

11 **Settlement Procedure No. 3** - The parties shall appear before a retired
12 judicial officer or other private dispute resolution body for settlement
13 proceedings.

14 Unless otherwise ordered by the Magistrate Judge conducting a
15 settlement conference (whose procedures will apply if different from those set
16 forth here), the parties shall follow the “Requirements for Settlement Procedures”
17 set forth in Local Rule 16-15.5.

18 If a settlement is reached, it shall be reported immediately to this Court as
19 required by Local Rule 16-15.7. **In all cases set for jury trial, the parties must**
20 **notify the Court, no later than the Wednesday preceding the Tuesday trial**
21 **date, of any settlement, so that the necessary arrangements can be made to**
22 **bring in a different case for trial or notify the members of the public who**
23 **would otherwise be reporting for jury duty that their services are not needed**
24 **that date.**

25 **Failure to comply with this notification requirement may result in the**
26 **imposition of sanctions on counsel for one or more parties, or their clients, or**
27 **both.**

28 **Pretrial Conference**

1 The Court will conduct a Pretrial Conference in this case pursuant to Federal
2 Rule of Civil Procedure 16 and Local Rule 16 on the date and time listed above.
3 Each party appearing in this action shall be represented at the Pretrial Conference
4 and at all pretrial meetings by the lead trial counsel. Counsel should be prepared to
5 discuss streamlining the trial, including presentation of testimony by deposition
6 excerpts, time limits, stipulations as to undisputed facts, and qualification of
7 experts by admitted resumes. In rare cases where the Pretrial Conference is
8 waived by the Court, counsel must follow Local Rule 16-11.2.

9 **Pretrial Filings**

10 Counsel shall submit carefully prepared Memoranda of Contentions of Fact
11 and Law (which may also serve as the trial briefs) and proposed Pretrial
12 Conference Orders in accordance with the provisions of Local Rules 16-4 through
13 16-7. The form of the proposed Pretrial Conference Order shall be in conformity
14 with the form set forth in Appendix A to the Local Rules.

15 The Memoranda of Contentions of Fact and Law shall be served not later
16 than twenty-one (21) calendar days before the Pretrial Conference. The proposed
17 Pretrial Conference Order shall be lodged eleven (11) calendar days before the
18 Pretrial Conference.

19 In drafting the proposed Pretrial Conference Order, counsel shall make a
20 good faith effort to agree on and set forth as many uncontested facts as possible.
21 The Court may read the uncontested facts to the jury at the start of the trial.
22 Carefully drafted and comprehensively stated stipulations of facts will reduce the
23 length of trial and increase the jury's understanding of the case.

24 In drafting the factual issues in dispute for the proposed Pretrial Conference
25 Order, the issues of fact should track the elements of a claim or defense upon
26 which the jury would be required to make findings. Counsel should attempt to
27 state issues in ultimate fact form, not in the form of evidentiary fact issues (i.e.,
28 "was the defendant negligent," "was such negligence the proximate cause of injury

1 to the plaintiff,” “was the plaintiff negligent;” not, “was the plaintiff standing on
 2 the corner of 5th and Spring at 10:00 a.m. on May 3”). Counsel may list sub-issues
 3 under the headings of ultimate fact issues but should not use this as a device to list
 4 disputes over evidentiary matters. In general, the issues of fact should set forth the
 5 disputed elements of the claims or affirmative defenses.

6 Issues of law should state legal issues upon which the Court will be required
 7 to rule after the Pretrial Conference, including during the trial, and should not list
 8 ultimate fact issues to be submitted to the trier of fact.

9 If expert witnesses are to be called at trial, each party shall list and identify
 10 its respective expert witnesses. Failure of a party to list and identify an expert
 11 witness in the proposed Pretrial Conference Order shall preclude a party from
 12 calling that expert witness at trial.

13 **Exhibit and Witness Lists**

14 Counsel are to prepare their exhibits by placing them in 3-hole notebooks
 15 which are tabbed down the right side with exhibit numbers. The notebooks are to
 16 be prepared with an original for the Courtroom Deputy Clerk, which shall be
 17 tagged with the appropriate exhibit tags in the upper right hand corner of the first
 18 page of each exhibit, and one copy for the Court. Each notebook shall contain a list
 19 of the included exhibits. The exhibits are to be numbered in accordance with Local
 20 Rule 26-3. Counsel can obtain exhibit tags at the Clerk's Office, Room 134, 1st
 21 Floor, 3470 Twelfth Street, Riverside.

22 The Court requires the following to be submitted to the Courtroom Deputy
 23 Clerk on the first day of trial:

- 24 • The original exhibits with the Court's exhibit tags. The parties shall use
 25 yellow tags for plaintiff and blue tags for defendant, which shall be stapled
 26 to the front of the exhibit on the upper right corner with the case number,
 27 case name, and exhibit number placed on each tag.

- One bench book with a copy of each exhibit for use by the Court, tabbed with numbers as described above. (Court's exhibit tags not necessary.)
- Three (3) copies of exhibit lists.

The exhibit lists shall be in the form indicated by the following example:

Case Title: _____ Case No. _____

<u>No. of Exhibit</u>	<u>Description</u>	<u>Date Identified</u>	<u>Date Admitted</u>
3	1/30/80 Medical Report	1/1/01	1/2/01

- Three (3) copies of witness lists in the order in which the witnesses may be called to testify.

The witness lists shall be in the form indicated by the following example:

Case Title: _____ Case No. _____

<u>Name of Witness</u>	<u>Date called to testify</u>
1. John Doe	1/1/01
2. Jane Roe	1/2/01

All counsel are to meet no later than ten (10) calendar days before trial and to stipulate to the extent possible to foundation, waiver of the best evidence rule, and which exhibits may be received into evidence at the start of trial. The exhibits to be received will be noted on the extra copies of the exhibit lists.

Jury Instructions

Fourteen (14) calendar days prior to the Rule 16-2 Meeting of Counsel, counsel shall exchange proposed jury instructions and special verdict forms (if applicable). Seven (7) calendar days prior to the Rule 16-2 meeting, counsel shall exchange any objections to the instructions and special verdict forms. Prior to, or at the time of the Rule 16-2 meeting, counsel shall meet and confer with the goal of reaching agreement to one set of joint, undisputed jury instructions and one special verdict form.

The parties must file proposed jury instructions seven (7) calendar days before the Pretrial Conference. As always, the parties must submit courtesy copies

1 directly to the Court. In addition, the parties must submit electronic versions (Word
2 format) to the Court at the following electronic mail address:

3 **SHK_Chambers@cacd.uscourts.gov.**

4 As noted above, the parties must act jointly to submit proposed jury
5 instructions. The parties must submit one set of agreed upon jury instructions. The
6 parties must submit another set of jury instructions containing the instructions upon
7 which the parties disagree and the objections to those instructions.

8 Where the parties disagree on an instruction, the party opposing the
9 instruction must attach a short (i.e., one to two paragraphs) statement supporting
10 the objection and the party submitting the instruction must attach a short statement
11 supporting the instruction. Each statement should be on a separate page and should
12 follow directly after the disputed instruction.

13 Accordingly, the parties ultimately will submit one document or, if the
14 parties disagree over any proposed jury instructions, two documents. If the parties
15 submit two documents, those documents should consist of: (1) a set of agreed upon
16 jury instructions and (2) a set of disputed jury instructions along with reasons
17 supporting and opposing each disputed instruction.

18 The parties should make every attempt to agree upon the jury instructions
19 before submitting them to the Court. In addition, where the most recent edition of
20 the Manual of Model Civil Jury Instructions for the Ninth Circuit provides a
21 version of a requested instruction, the parties should submit the Model instruction.
22 Where California law applies, the Court prefers counsel to use *Judicial Council of*
23 *California, Civil Instructions* - ("CACI"). If neither of the above sources has an
24 instruction on the subject, counsel are directed to the most recent edition and
25 supplement of Edward J. Devitt, *et al.*, *Federal Jury Practice and Instructions*.
26 Each requested jury instruction shall cover only one subject or principle of law and
27 shall be numbered and set forth in full on a separate page, citing the authority or
28 source of the requested instruction (except for the jury copy discussed infra).

The Court will send a copy of the jury instructions into the jury room for use by the jury during deliberations. Accordingly, in addition to the file copies described above, the parties shall file with the Courtroom Deputy Clerk on the first day of the trial a “clean set” of joint and/or proposed jury instructions which contain only the text of each instruction set forth in full on each page, with the caption “Court’s Instruction Number ” (eliminating titles, supporting authority, indication of party proposing, etc.). This will be referred to as the “Jury Copy” of the jury instructions.

An index page shall accompany all jury instructions submitted to the Court. The index page shall indicate the following:

- The number of the instruction;
- A brief title of the instruction;
- The source of the instruction and any relevant case citations; and
- The page number of the instruction.

EXAMPLE:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
1	Burden of Proof	9th Cir.	12.02 7

Joint Statement of the Case

Counsel shall prepare a joint statement of the case which will be read by the Court to the prospective panel of jurors prior to the commencement of voir dire. The statement should not be longer than two or three paragraphs. The statement shall be filed with the Court seven (7) calendar days before the Pretrial Conference.

Matters to be Discussed at the Pretrial Conference

Counsel shall be prepared to discuss the following matters with the Court at the Pretrial Conference:

- the witnesses all parties intend to call during their respective cases, and the amount of time necessary for direct and cross examination of each

1 witness;

- 2 • any anticipated problems in scheduling witnesses;
- 3 • any evidentiary issues, including anticipated objections under Rule 403,
- 4 and objections to exhibits;
- 5 • jury selection procedures;
- 6 • all pretrial motions, including motions in limine, to bifurcate and to
- 7 sever;
- 8 • any disputed jury instructions, and the form of the instructions which
- 9 will be given to the jury at the outset of the case, i.e., before opening
- 10 statements and presentation of evidence;
- 11 • whether any counsel intends to use any evidence or demonstrative aid
- 12 in opening statement; and
- 13 • motions to exclude witnesses from the courtroom during trial testimony.

14 If counsel for any party need to arrange for the installation of its own
 15 equipment, such as video monitors, tape or compact disk players, notebooks or
 16 overhead projectors, counsel shall notify the Courtroom Deputy Clerk no later than
 17 4:00 p.m. two (2) days before trial so that the necessary arrangements can be made.

18 **Trial**

19 The Court sets firm trial dates. Counsel shall arrive at the Courtroom not
 20 later than 7:30 a.m. each day of trial. The Court reserves the time from 7:30 to 8:00
 21 a.m. to handle legal and administrative matters outside the presence of the jury.
 22 The trial will commence promptly at 8:00 a.m, unless the Court determines, in
 23 consultation with the jurors, that it should start earlier. Counsel shall anticipate
 24 matters which may need discussion or hearing outside the presence of the jury and
 25 to raise them during this period.

26 The Court generally anticipates that the trial will proceed as follows: The
 27 Court will be in session with the jury on Mondays through Fridays, 8:00 a.m. to
 28 2:00 p.m., with a 15-minute morning break and a 30-minute lunch break. In most

1 cases, jury selection is completed on the first morning of trial, and counsel should
2 be prepared to give opening statements and begin presentation of evidence
3 immediately thereafter.

4 All counsel are asked to observe the following practices during trial:

- 5 • All counsel, defendants, and parties shall rise when the jury enters and
6 leaves the courtroom.
- 7 • Counsel shall stand when addressing the Court, including when objecting to
8 opposing counsel's questions.
- 9 • When objecting, counsel should state only "objection," and the legal ground
10 for the objection (e.g., hearsay, irrelevant, etc.). Counsel should refrain from
11 arguing the legal basis for the objection unless permission is granted to do
12 so.
- 13 • Counsel must seek leave to approach the Courtroom Deputy Clerk or the
14 witness and should question witnesses while standing at the lectern.
- 15 • Counsel must address all witnesses, including their clients, by the witness's
16 surname. However, young witnesses, i.e., children younger than age 15,
17 may be addressed by first names.
- 18 • Counsel shall not discuss the law or argue the case in opening statements.
- 19 • Counsel shall address all remarks to the Court, and should not directly
20 address the Courtroom Deputy Clerk, the Court Reporter, opposing counsel
21 or the jury (except in opening statement and closing argument). Counsel
22 must ask the Court for permission to talk off the record in order to speak
23 with opposing counsel.
- 24 • Counsel shall not make an offer of stipulation unless he or she has conferred
25 with opposing counsel and believes that the stipulation will be accepted.
26 Any stipulation of fact will require the defendant's personal concurrence and
27 shall be submitted to the Court in writing for approval.
28

- While Court is in session, counsel may not leave the counsel table to confer with witnesses, colleagues or assistants in the back of the courtroom unless the Court grants permission to do so in advance.
- When a party has more than one lawyer, only one of the lawyers may conduct the examination of a given witness and only that same lawyer may handle objections during the testimony of that witness.
- If a witness was on the stand before a recess or adjournment, counsel shall have the witness back on the stand and ready to proceed when Court resumes.
- If there is more than a brief delay between witnesses, the Court may deem that the party has rested.
- The Court attempts to cooperate with witnesses and will, except in extraordinary circumstances, accommodate them by permitting them to be examined out of sequence. Counsel should discuss any scheduling issues with opposing counsel. If there is an objection, confer with the Court in advance.

Internet Site

Counsel are encouraged to review the Central District's website for additional information. The address is "<http://www.cacd.uscourts.gov>."

IT IS SO ORDERED.

Dated: April 5, 2023


HON. SHASHI H. KEWALRAMANI
UNITED STATES MAGISTRATE JUDGE

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